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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/439,057	11/12/1999	PAUL LEO FASO	93091.01	1185

3490 7590 07/25/2005

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EXAMINER
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ABEL JALIL, NEVEEN

ART UNIT	PAPER NUMBER
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2165

DATE MAILED: 07/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/439,057	Applicant(s) FASO, PAUL LEO	
	Examiner Neveen Abel-Jalil	Art Unit 2165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2004.
- 2a) ☒ This action is **FINAL**.      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### Remarks

1. The Amendment filed on September 20, 2004 has been received and entered. Claims 1-14 are pending.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6, 8-10 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Bonet (U.S. Patent No. 5,852,823) in view of Walker et al. (U.S. Patent No. 5,794,207) and further in view of Hysten (U.S. Pub. No. 2002/0118209 A1).

As to claim 1, De Bonet teaches an apparatus for facilitating the selection of digital images, comprising:

a storage device (see De Bonet Fig.2, see De Bonet column 10, lines 37-38); and  
a processor connected to the storage device (see De Bonet Fig. 2, element 224, see De Bonet column 10, lines 31-39), the storage device storing a program for controlling the processor (see De Bonet column 10, lines 38-45); and

the processor operative with the program (see De Bonet column 11, lines 5-10) to:  
receive search criteria regarding the subject matter of digital images from a user (see De Bonet column 11, lines 17-23);  
make one or more base digital images satisfying the search criteria available for the user to view (see De Bonet column 22, line 51-60) ;  
receive input from the user to select a base digital image (see De Bonet column 11, lines 24-32, where “base digital image” is read on “query image”);  
receive input from the user to elect one or more derivative images by the user (see De Bonet column 11, lines 28-35).

De Bonet does not teach acquisition.

Walker et al. teaches acquisition (see Walker et al. Abstract, see Walker et al. Fig. 5, also see Walker et al. column 8, lines 27-32).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified De Bonet to include acquisition.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified De Bonet by the teachings of Walker et al., because having acquisition capability in the system, enables the seller of the product to attract more potential buyers and additionally results in substantial savings in time and money to both the parties (see Walker et al., column 2, lines 28-33).

De Bonet as modified still does not teach retrieve and display a plurality of derivative images corresponding to the base digital image selected by the user, said derivative images pre-selected variations of the base original image.

Hylen teaches retrieve and display a plurality of derivative images corresponding to the base digital image selected by the user, said derivative images pre-selected variations of the base original image (See Hylen page 4, paragraph 0047, also see Hylen page 5, paragraph 0055, also Hylen page 5, paragraph 0059).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have further modified De Bonet as modified to include retrieve and display a plurality of derivative images corresponding to the base digital image selected by the user, said derivative images pre-selected variations of the base original image.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have further modified De Bonet as modified by the teachings of Hylen to include retrieve and display a plurality of derivative images corresponding to the base digital image selected by the user, said derivative images pre-selected variations of the base original image because it creates a user-friendly digital imaging method to automatically provides variety of texture in a photograph (See Hylen page 2, paragraphs 0016-0017).

As to claim 2, De Bonet as modified teaches a method, wherein the derivative images further comprise a plurality of pre-modified variations of the selected base digital image which are pre associated with the selected base digital image (see De Bonet column 8, lines 52-59, also see Hylen page 4, paragraph 0047, also see Hylen page 5, paragraph 0055, also Hylen page 5, paragraph 0059).

As to claim 3, De Bonet as modified teaches a method, wherein the derivative images have been created prior to the user's selection of the base digital image and are stored in the storage device (see De Bonet column 8, lines 36-45).

As to claim 4, De Bonet as modified teaches a method, wherein the derivative images further comprise the selected base digital image (see De Bonet column 15, lines 1-7).

As to claim 5, De Bonet as modified teaches a method, further comprising the processor operative with the program to make the elected derivative image available to the user to download (see De Bonet column 11, lines 32-37, where "download" is read on "other mechanism").

As to claim 6, De Bonet as modified does not teach a method, further comprising the processor operative with the program to: receive payment information from the user; and process the payment information to finalize the acquisition of the elected derivative image.

Walker et al. teaches a method, further comprising the processor operative with the program to: receive payment information from the user (see Walker et al. column 8, lines 42-56); and process the payment information to finalize the acquisition (see Walker et al. column 21, lines 27-37).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified De Bonet to include a processor operative with program to: receive payment information from the user; and process the payment information to finalize the acquisition of the elected derivative image.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified De Bonet by the teachings of Walker et al. to include a processor operative with program to: receive payment information from the user; and process the payment information to finalize the acquisition of the elected derivative image because having acquisition capability in the system, enables the seller of the product to attract more potential buyers and additionally results in substantial savings in time and money to both the parties (see Walker et al., column 2, lines 28-33).

As to claim 8, De Bonet teaches a method for using a computer to facilitate the selection of digital images (see Abstract), comprising:

inputting into the computer search criteria regarding the subject matter of digital images (see De Bonet column 7, lines 38-41, also see De Bonet column 11, lines 17-23);

outputting one or more base digital images which satisfy the search criteria (see De Bonet column 2, lines 55-61, also see De Bonet column 15, lines 1-4, where “base digital image” is read on “query image”);

inputting into the computer a selection of one or more of the base digital images (see De Bonet column 11, lines 24-28, also see De Bonet column 13, lines 15-19, where “base digital image” is read on “query image”);

inputting into the computer an election of one or more derivative images by a user (see De Bonet column 11, lines 32-37); and

outputting one or more elected derivative images (see De Bonet column 11, lines 32-37) by the user.

De Bonet does not teach acquisition.

Walker et al. teaches acquisition (See Walker et al. Abstract, see Walker et al. Fig. 5, also see Walker et al. column 8, lines 27-30).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified De Bonet to include acquisition.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified De Bonet by the teachings of Walker et al. to include acquisition because having acquisition capability in the system, enables the seller of the product to attract more potential buyers and additionally results in substantial savings in time and money to both the parties (see Walker et al., column 2, lines 28-33).

De Bonet as modified still does not teach outputting a plurality of derivative images corresponding to the selected base digital image independent of conducting a query for said derivative images from a database.

Hylen teach outputting a plurality of derivative images corresponding to the selected base digital image independent of conducting a query for said derivative images from a database (See



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Hylen page 4, paragraph 0047, also see Hylen page 5, paragraph 0055, also Hylen page 5, paragraph 0059).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have further modified De Bonet as modified to include outputting a plurality of derivative images corresponding to the selected base digital image independent of conducting a query for said derivative images from a database.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have further modified De Bonet as modified by the teachings of Hylen to include outputting a plurality of derivative images corresponding to the selected base digital image independent of conducting a query for said derivative images from a database because it creates a user-friendly digital imaging method to automatically provides variety of texture in a photograph (See Hylen page 2, paragraphs 0016-0017).

As to claim 9, De Bonet as modified teaches a method, wherein the derivative images have been created prior to the selection of the base digital image and are stored in a storage device of the computer, and are pre-associated with the base digital image (see De Bonet column 22, line 60 through column 23, line 8, also see Hylen page 4, paragraph 0047, also see Hylen page 5, paragraph 0055, also Hylen page 5, paragraph 0059).

As to claim 10, De Bonet as modified teaches a method, wherein the derivative images further comprise the selected base digital image (see De Bonet column 15, lines 1-7).

As to claim 12, De Bonet as modified teaches a method, wherein the step of outputting one or more elected derivative images by the user further comprises the steps of: the elected derivative image; and outputting the elected derivative images to the user (see De Bonet column 23, lines 5-8).

De Bonet as modified does not teach acquisition by the user further comprises the steps of: inputting into the computer payment information; outputting payment authorization.

Walker et al. teaches acquisition by the user further comprises the steps of: inputting into the computer payment information (see Walker et al. column 8, lines 42-56); outputting payment authorization (see Walker et al. column 13, lines 39-44).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified De Bonet to include elected derivative images for acquisition by the user further comprises the steps of: inputting into the computer payment information; outputting payment authorization for the elected derivative image.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified De Bonet by the teachings of Walker et al. to include elected derivative images for acquisition by the user further comprises the steps of: inputting into the computer payment information; outputting payment authorization for the elected derivative image because having acquisition capability in the system, enables the seller of the product to attract more potential buyers and additionally results in substantial savings in time and money to both the parties (see Walker et al., column 2, lines 28-33).

As to claim 13, De Bonet as modified teaches a method, wherein the step of outputting a plurality of derivative images corresponding to the selected base digital image (see De Bonet column 8, lines 37-45) further comprises the steps of:

retrieving the derivative images corresponding the selected base digital image from a storage device of the computer (see De Bonet column 22, lines 32-44); and

displaying the derivative images upon a video monitor of the computer (see De Bonet column 22, lines 46-60).

As to claim 14, De Bonet as modified teaches a method, wherein the step of outputting one or more base digital images which satisfy the search criteria further comprises the steps of:

searching a database of base digital images in the computer based on the search criteria (see De Bonet column 23, line 63 through column 24, line17);

displaying the base digital images which satisfy the search criteria upon a video monitor of the computer (see De Bonet column 22, line 46-55).

4. Claims 7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Bonet (U.S. Patent No. 5,852,823) in view of Walker et al. (U.S. Patent No. 5,794,207) and further in view of Hysten (U.S. Pub. No. 2002/0118209 A1) as applied to claims 1-6, 8-10, and 12-14 above, and further in view of Shaffer et al. (U.S. Patent No. 6,389,181).

As to claims 7 and 11, De Bonet as modified does not teach a method, further comprising the steps of:

inputting into the computer a selection of a special effects tool; and  
utilizing the special effects tool to modify the elected derivative image.

Shaffer et al. teaches a method, further comprising the steps of:

inputting into the computer a selection of a special effects tool (see Shaffer et al. Fig. 4, see Shaffer et al. column 10, lines 1-17); and

utilizing the special effects tool to modify the elected derivative image (see Shaffer et al. column 2, lines 5-15).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified De Bonet to include steps of: inputting into the computer a selection of a special effects tool and utilizing the special effects tool to modify the elected derivative image.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified De Bonet by the teachings of Shaffer et al. to include steps of: inputting into the computer a selection of a special effects tool and utilizing the special effects tool to modify the elected derivative image because having a special effects tool built into the system, provides the consumers with a convenience of customizing the desired image without having to spend time and money looking for a special tool out somewhere, thus enabling the consumer to achieve a high-quality product at a reasonable cost (see Shaffer et al. see column 2, lines 32-36).

*Response to Arguments*

5. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*


6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074. The examiner can normally be reached on 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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Neveen Abel-Jalil

July 18, 2005